

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 05-13713-B

KENNETH BRYANT,

versus

UNITED STATES OF AMERICA,

Petitioner-Appellant,

Respondent-Appellee.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
SEP 21 2005
THOMAS K. KAHN
CLERK

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Appeal from the United States District Court for the
Middle District of Alabama

ORDER:

To merit a certificate of appealability, appellant must show that reasonable jurists would find debatable both (1) the merits of an underlying claim and (2) the procedural issues he seeks to raise. See 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 478, 120 S.Ct. 1595, 1600-01, 146 L.Ed.2d 542 (2000). Because appellant has failed to make the requisite showing, the motion for a certificate of appealability, as construed from the notice of appeal, is DENIED. See Hill v. Hopper, 112 F.3d 1088, 1089 (11th Cir. 1997).

Appellant's motion for leave to proceed on appeal in forma pauperis is DENIED AS MOOT.

A. Tracy Gandy, Clerk
Clerk, U.S. Court of Appeals
Eleventh Circuit

By: Carolyn Mager
Deputy Clerk
Atlanta, Georgia

/s/ Susan H. Black
UNITED STATES CIRCUIT JUDGE